



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 3, 1998

Mr. Michael J. Cosentino
City Attorney
The City of Bryan
P.O. Box 1000
Bryan, Texas 77805

OR98-2565

Dear Mr. Cosentino:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 119258.

The City of Bryan (the "city") received a request for police report number 98-070581. You assert that two supplemental reports, dated July 14 and 23, 1998, are excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and have reviewed the documents submitted.

First, we note that the supplemental report dated July 14, 1998 is a juvenile law enforcement record that is made confidential by section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.101 encompasses confidentiality provisions such as Family Code section 58.007. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under section 58.007. The relevant language of section 58.007(c) reads as follows:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child may not be disclosed to the public and shall be:

- (1) kept separate from adult files and records; and
- (2) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapter B.

The supplemental report at issue involves juvenile conduct that occurred after September 1, 1997. It does not appear that any of the exceptions in section 58.007 apply; therefore, the July 14, 1998 supplemental report is confidential pursuant to section 58.007(c) of the Family Code. The city must withhold the report from disclosure under section 552.101 of the Government Code.

Next, you assert that section 552.108 excepts the July 23, 1998 supplemental report from public disclosure. Section 552.108 of the Government Code excepts from required public disclosure:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if:

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]

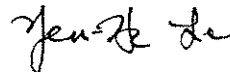
....

(c) This section does not except from [public disclosure] information that is basic information about an arrested person, an arrest, or a crime.

You indicate that the reported incident did not result in conviction or deferred adjudication because the district attorney's office declined to prosecute the matter. We conclude that you may withhold the information under section 552.108(a)(2). However, we note that "basic information about an arrested person, an arrest, or a crime" is not excepted from required public disclosure. Gov't Code § 552.108(c). Basic information is the type of information that is considered to be front page offense report information even if this information is not actually located on the front page of the offense report. *See generally Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Thus, except for basic information, you may withhold the July 23, 1998 supplemental report under section 552.108(a)(2).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Yen-Ha Le
Assistant Attorney General
Open Records Division

Ref: ID# 119258

Enclosures: Submitted documents

cc: Ms. Crystal Pineda
2800 Old Hearne Rd., #19
Bryan, Texas 77803
(w/o enclosures)